

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

FILED
NOV 19 2013

CLERK

UNITED STATES OF AMERICA,

Plaintiff

v.

CR. 13-30185-02

ORDER SETTING CONDITIONS
OF RELEASE

Henry Chase Along,
Defendant

GENERAL CONDITIONS OF RELEASE

IT IS ORDERED that the release of Defendant shall be subject to the following conditions:

- (1) Defendant shall not violate any federal, state or local (including tribal) law while on release in this case.
- (2) Defendant shall appear at or participate in all case-related matters scheduled by his/her attorney. In addition, Defendant shall promptly answer all correspondence and promptly respond to all communication from his/her attorney and shall cooperate fully with his/her attorney so that the attorney is able to properly and efficiently manage the case.
- (3) Defendant shall appear for all proceedings as required by the Court, and, if convicted, shall surrender himself/herself as directed to serve any sentence imposed by the Court.
- (4) Defendant shall advise the Court, the Probation Office or his/her supervising officer in writing before making any change of residence or telephone number.
- (5) Defendant shall cooperate in the collection of a DNA sample if the collection of such a sample is authorized by 42 U.S.C. §14135a.

RELEASE ON PERSONAL RECOGNIZANCE OR UNSECURED BOND

IT IS FURTHER ORDERED that Defendant shall be released:

- ()(6) On his/her own personal recognizance based on his/her promise to appear when directed and comply with the terms and conditions of release as set forth herein.

- () (7) If and when he/she executes an unsecured bond binding him/her to pay the United States the sum of _____ dollars (\$_____) in the event he/she fails to appear as required or comply with any term or condition of release.

ADDITIONAL CONDITIONS OF RELEASE

Upon finding that release by one of the above methods will not by itself reasonably ensure the appearance of Defendant and the safety of other persons and the community, it is further

ORDERED that the release of Defendant shall be subject to the conditions marked below:

- () (8) Defendant shall be placed in the custody of:

who shall:

- (a) supervise Defendant in accordance with all conditions of release;
- (b) use every effort to assure the appearance of Defendant at all scheduled court proceedings; and
- (c) immediately notify the Probation Office or supervising officer if Defendant violates any condition of release or disappears.

Date	Third Party Custodian	Address
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Date	Third Party Custodian	Address
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- (✓) (9) Defendant shall:

- (✓)(a) submit to supervision by and report for supervision to the Probation Office or supervising officer as directed.
- ()(b) continue or actively seek employment as directed.
- ()(c) continue or start an educational program as directed.
- ()(d) surrender any passport to: _____.

- () (e) not obtain a passport or other international travel document.
- () (f) abide by the following restrictions on personal association, residence, or travel:
- () (i) Not leave _____ unless authorized to do so by the Court.
- () (ii) Other: _____
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- () (g) not have any initiated contact, direct, or indirect, with any person who is or may be a victim or witness in the investigation or prosecution of the case, to wit:

- (✓)(h) obtain medical or mental health treatment and follow all treatment directives.
- () (i) return as directed to custody after being released for employment, schooling, or for the following purposes:

- () (j) maintain residence at a halfway house or community corrections center as directed and comply with the rules thereof.
- (✓)(k) not possess a firearm, destructive device, or dangerous weapon.
- (✓)(l) not use alcohol (✓) at all () excessively.
- (✓)(m) not use or unlawfully possess a narcotic drug or other controlled substance as defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.
- (✓)(n) submit to testing for a prohibited substance if required by the Probation Office or supervising officer. Testing may be used with random frequency and may include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing. Defendant shall not obstruct, attempt to obstruct, or tamper with the efficiency and accuracy of prohibited substance screening or testing.

- () (o) participate in a program of inpatient or outpatient substance abuse evaluation, therapy, treatment, or counseling as directed.
- () (p) participate in one of the following location restriction programs and comply with its requirements as directed.
 - () (i) **Curfew.** Defendant shall be restricted to his/her residence or the residence of _____ every day from _____ to _____ unless otherwise authorized by the Probation Office or supervising officer.
 - () (ii) **Home Detention.** Defendant shall be restricted to his/her residence or the residence of _____ at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities approved in advance by the Probation Office or supervising officer.
 - () (iii) **Home Incarceration.** Defendant shall be restricted to 24-hour-a-day lock-down at his/her residence or the residence of _____ except for medical necessities and court appearances or other activities specifically approved by the Court.
- () (q) submit to location monitoring as directed and comply with all program requirements and instructions provided.
 - () He/she shall pay all or part of the cost of the program based on his/her ability to pay as determined by the Probation Office or supervising officer.
- (✓)(r) report as soon as possible, to the Probation Office or supervising officer every contact with law enforcement personnel, including arrests, questioning, or traffic stops.
- () (s) not associate with any person(s) engaged in criminal activity or any person(s) convicted of a felony unless granted permission to do so by the Court.
- (✓)(t) not enter or remain in any business establishment, residence, or private club where alcoholic beverages are served, sold for consumption or consumed.

- ()(u) submit to a search and seizure at any time of the day or night of his/her person, personal possessions and property, real or personal, which he/she may own or lease, or which he/she may exercise or have the right to exercise possession or control over whenever requested to do so by the Court, the Probation Office or supervising officer.
- () (v) reside at a residence approved by the Probation Office or supervising officer.
- ()(w) not operate a motor vehicle () without a valid state driver's license () at all.
- () (x) not discuss the facts of the case with co-defendant, Rochelle Breckbill aka Rochelle Lee Bean, and Kyle Lee.
- ()(y) not enter or remain within the exterior boundaries of _____ reservation(s).
- ()(z) Other:
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ADVICE OF PENALTIES AND SANCTIONS

Violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for Defendant's arrest, a revocation of release, an order of detention, as provided in 18 U.S.C. §3148, and a prosecution for contempt as provided in 18 U.S.C. §401 which could result in a possible term of imprisonment, a fine or both.

The commission of any offense while on pretrial release may result in an additional sentence upon conviction for such offense to a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. 18 U.S.C. §3147. This sentence shall be consecutive to any other sentence and shall be imposed in addition to the sentence received for the offense itself. *Id.*

18 U.S.C. §1503 makes it a criminal offense punishable by up to ten years of imprisonment and a \$250,000 fine to intimidate or attempt to intimidate a witness, juror or officer of the court (and imposes a more severe punishment in the case of a killing or where the offense was committed against a petit juror and a Class A or B felony was charged, *see* §1503(b)(1), (2)); 18 U.S.C. §1510 makes it a criminal offense punishable by up to five years of imprisonment and a \$250,000 fine to obstruct a criminal investigation; 18 U.S.C. §1512 makes it a criminal offense punishable by up to twenty years of imprisonment and a \$250,000 fine to tamper with a witness, victim or informant (and provides for a more severe punishment if certain circumstances are present, *see* §1512(a)(1), (2)); and 18 U.S.C. §1513 makes it a criminal offense punishable by up to ten years of imprisonment and a \$250,000 fine to retaliate against a witness, victim or informant, or threaten or attempt to do so (and calls for a more severe punishment if specific aggravating factors exist, *see* §1513(a), (b), (c)).

18 U.S.C. §3146. If after having been released, Defendant knowingly fails to appear as required by the conditions of release, or to surrender for the service of sentence pursuant to a court order, he/she shall be punished as hereafter provided in this section. If Defendant was released in connection with a charge of, or while awaiting sentence, surrender for the service of a sentence, or appeal or certiorari after conviction, for:

- (1) An offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, Defendant shall be fined up to \$250,000 or imprisoned for not more than ten years, or both;
- (2) An offense punishable by imprisonment for a term of five years or more, but less than fifteen years, Defendant shall be fined up to \$250,000 or imprisoned for not more than five years, or both;
- (3) Any other felony, Defendant shall be fined up to \$250,000 or imprisoned for not more than two years, or both; or
- (4) A misdemeanor, Defendant shall be fined up to \$100,000 or imprisoned for not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be consecutive to the sentence of imprisonment for any other offense. In addition, a failure to appear may result in the forfeiture of any bail posted.

ACKNOWLEDGMENT OF DEFENDANT

I acknowledge that I am the Defendant in the above-entitled case and that I am aware of all of the conditions of my release. I promise to obey all conditions of release, to appear as directed, and to promptly surrender myself for service of any sentence that may be imposed. I am fully aware of the penalties and sanctions set forth above.

Henry C. S. Atwell
SIGNATURE OF DEFENDANT

11-19-13

DATE

MAILING ADDRESS

TELEPHONE NO.

DIRECTIONS TO UNITED STATES MARSHAL

- () Defendant shall be released after processing.
- () Defendant shall be released after () he and his/her third party custodian(s) execute the release portion of the Court's Order.
- () The United States Marshal shall transport Defendant to _____ in _____ South Dakota and then transport him/her to Pierre, South Dakota for all further proceedings as directed by the Court.
- () Other: _____

Dated this 19th day of November, 2013 at Pierre, South Dakota.

BY THE COURT:

Mark A. Moreno

**MARK A. MORENO
UNITED STATES MAGISTRATE JUDGE**